

RECEIVED
CENTRAL FAX CENTER

DEC 20 2004

OFFICIAL**CARDINAL LAW GROUP**

1603 Orrington Avenue/Suite 2000
Evanston, Illinois 60201
Telephone 847 - 905 - 7111
Facsimile 847 - 905 - 7113

Date: DECEMBER 20, 2004

To: EXAMINER AL AUBAIDI, R.
U.S. PATENT AND TRADEMARK OFFICE
Fax #: (703) 872-9315

From: DARRIN WESLEY HARRIS
Phone #: (847) 905-7111

Client/Matter No.: NL 000585 (7790/359)

of Pages: 19
(including cover sheet)

IF YOU HAVE ANY PROBLEMS RECEIVING THIS MESSAGE, PLEASE CALL 847/905-7111, Ext. 112 AND ASK FOR JENNIFER CRUZ.

THIS MESSAGE IS INTENDED ONLY FOR THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED. IT MAY CONTAIN PRIVILEGED, CONFIDENTIAL, ATTORNEY WORK PRODUCT, OR TRADE SECRET INFORMATION WHICH IS EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAWS. IF YOU ARE NOT THE INTENDED RECIPIENT, OR AN EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS MESSAGE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS MESSAGE IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE (AND ALL COPIES) TO US BY MAIL AT THE ABOVE ADDRESS. WE WILL REIMBURSE YOU FOR POSTAGE.

BEST AVAILABLE COPY

PTO/USPTO (13-67) Approved for use through 05/06. GSA GEN. REG. NO. 27-0000. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paper Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Attorney Docket No.	NL 000585 (7790/359)
Application Number	10/040,172
Filing Date	OCTOBER 23, 2001
First Named Inventor	ROBERT D. SCHOFIELD
Group Art Unit	2642
Examiner	AL AUBAIDI, RASHA S.

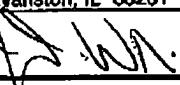
ENCLOSURES (check all that apply)

<input type="checkbox"/> Amendment	<input type="checkbox"/> Assignment Papers (for an Application)	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> After Final	<input type="checkbox"/> Drawings:	<input checked="" type="checkbox"/> Appeal Brief (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> After Allowance Communication to Group	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Status Letter	<input type="checkbox"/> Petition Routing Slip (PTO/SB/69) and Accompanying Petition	<input type="checkbox"/> Post Card Receipt
<input type="checkbox"/> Petition for Extension of Time Request (duplic)	<input type="checkbox"/> To Convert a Provisional Application	<input type="checkbox"/> Additional Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input type="checkbox"/>
<input type="checkbox"/> Information Disclosure Statement, PTO-1449, art	<input type="checkbox"/> Terminal Disclaimer	<input type="checkbox"/>
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> Small Entity Statement	<input type="checkbox"/>
<input type="checkbox"/> Response to Missing Parts/ Incomplete Application	<input type="checkbox"/> Request of Refund	<input type="checkbox"/>
	<input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 50-1713. A duplicate copy of this sheet is enclosed.	
	<input checked="" type="checkbox"/> I hereby petition under 37 CFR § 1.138(a) for any extension of time required to ensure that this paper is timely filed. Please charge any associated fees which have not otherwise been paid to Deposit Account No. 50-1713. A duplicate copy of this sheet is enclosed.	

CALCULATION OF FEE

	Claims After Amendment	Highest No. Previously Paid For	Present Extra	Small Entity		Large Entity	
				Rate	Add'l Fee	Rate	Add'l Fee
Total		Minus	0	x \$25=	0	x \$50=	
Indep.		Minus	0	x \$100	0	x \$200	
				+ \$180	—	+ \$380=	
First Presentation of Multiple Dep. Claim				total add'l fee	\$ 0	total add'l fee	\$

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	DARRIN WESLEY HARRIS Registration No. 40,636 CARDINAL LAW GROUP 1603 Orrington Avenue, Suite 2000 Evanston, IL 60201		
Signature			Date: December 20, 2004

CERTIFICATE OF FACSIMILE

I hereby certify that this correspondence is being transmitted via facsimile to (703) 872-8315
to the United States Patent and Trademark Office on this date:

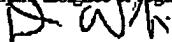
December 20, 2004

Signature		Date: December 20, 2004
DARRIN WESLEY HARRIS (40,636)		

RECEIVED
CENTRAL FAX CENTER

DEC 20 2004

Certificate of Facsimile
 I hereby certify that this correspondence is being
 transmitted by facsimile to (703) 872-9315 to the U.S.
 Patent and Trademark Office November 24, 2004
 (Date of Deposit)

DARRIN WESLEY HARRIS (40.636)
 Name of Appellant, assignee or registered representative

 Signature
November 24, 2004
 Date of Signature

PATENT
Case No. NL 000585
 (7790/359)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
 BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re patent application of:)
)
 ROBERT D. SCHOFIELD)
)
 Serial No.: 10/040,172)
)
 Filed: OCTOBER 23, 2001)
)
 For: USER CONTROL OF TELEPHONE)
 SWITCH THROUGH A)
 HTTP CLIENT APPLICATION)
)

Examiner: AL AUBAIDI, RASHA S
 Group Art Unit: 2642

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

Dear Sir:

Appellant herewith respectfully presents a Brief on Appeal as follows:

December 20, 2004
Case No. NL 000585 (7790/359)
Serial No.: 10/040,172
Filed: October 23, 2001
Page 2 of 17

TABLE OF CONTENTS

	<u>Page</u>
1. REAL PARTY IN INTEREST.....	3
2. RELATED APPEALS AND INTERFERENCES.....	4
3. STATUS OF CLAIMS.....	5
4. STATUS OF AMENDMENTS.....	6
5. SUMMARY OF CLAIMED INVENTION.....	7
6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL.....	9
7. ARGUMENT.....	10
8. CLAIMS APPENDIX.....	14
9. EVIDENCE APPENDIX.....	None
10. RELATED PROCEEDINGS APPENDIX.....	None

December 20, 2004
Case No. NL 000585 (7790/359)
Serial No.: 10/040,172
Filed: October 23, 2001
Page 3 of 17

1. REAL PARTY IN INTEREST

The real party in interest is Koninklijke Philips Electronics N.V., a corporation of The Netherlands having an office and a place of business at Groenewoudseweg 1, Eindhoven, Netherlands 5621 BA.

December 20, 2004
Case No. NL 000585 (7790/359)
Serial No.: 10/040,172
Filed: October 23, 2001
Page 4 of 17

2. RELATED APPEALS AND INTERFERENCES

Appellant and the undersigned attorney are not aware of any other appeals or interferences which will directly affect or be directly affected by or having a bearing on the Board's decision in the pending appeal.

December 20, 2004
Case No. NL 000585 (7790/359)
Serial No.: 10/040,172
Filed: October 23, 2001
Page 5 of 17

3. STATUS OF CLAIMS

Claims 17-19 are currently pending in the present application, and are the claims on appeal. See, Claims Appendix.

December 20, 2004
Case No. NL 000585 (7790/359)
Serial No.: 10/040,172
Filed: October 23, 2001
Page 6 of 17

4. STATUS OF AMENDMENTS

Appellant filed an after final request for reconsideration under 37 C.F.R. §1.116 in response to a Final Office Action dated July 14, 2004. The request for reconsideration contained non-statutory amendments to claims 17 and 19. For purposes of this Appeal, Examiner Al Aubaidi entered the request for reconsideration into the record.

December 20, 2004
Case No. NL 000585 (7790/359)
Serial No.: 10/040,172
Filed: October 23, 2001
Page 7 of 17

5. SUMMARY OF THE CLAIMED INVENTION

As illustrated in FIG. 1, one embodiment of a communication system employs a telephone 1 connected to a telephone switch 5 through a transmission medium 3. Telephone switch 5 can be controlled by a web server 11 that is connected to telephone switch 5 through a network connection 9. Web server 11 has a control application that can send control commands to telephone switch 5 to configure telephone switch 5, to control telephone switch 5 or to retrieve information from telephone switch 5. A browser 15 is provided for the user. Browser 15 is connected to the web server through a connection 13. The user can access the web server 11 through the browser 15. See, U.S. Patent Application Serial No. 10/040,172 at page 3, lines 6-30.

As illustrated in FIG. 6, a second embodiment of a communication system employs a telephone 67 connected via a telephone line 65 and through a Public Switched Telephone Network 63 and via a telephone line 61 between to a telephone switch 68, which is connected to other telephones via a telephone line 71. A server 72 can control telephone switch 68 via a connection 70. A browser 69 functions as a user interface and is connected via connection 66 to the network 64. Browser 69 can establish a connection with server 72 because server 72 is also connected network 64 via a connection 62. See, U.S. Patent Application Serial No. 10/040,172 at page 7, line 29 to page 8, line 18.

For both embodiments, if the browser is associated with a particular telephone, then the communication system knows exactly to which telephone the calls for the user that logged in via the browser must be routed. Additionally, if the web page is associated

December 20, 2004
Case No. NL 000585 (7790/359)
Serial No.: 10/040,172
Filed: October 23, 2001
Page 8 of 17

with the telephone, then the user can log in through the web page and identify himself.

The telephone switch now knows that the user is not at his own extension but at a different extension and can route the calls to the user the different extension. See, U.S.

Patent Application Serial No. 10/040,172 at page 4, lines 20-26.

December 20, 2004
Case No. NL 000585 (7790/359)
Serial No.: 10/040,172
Filed: October 23, 2001
Page 9 of 17

6. **GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

Claims 17-19 stand finally rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,091,808 to *Wood*.

December 20, 2004
Case No. NL 000585 (7790/359)
Serial No.: 10/040,172
Filed: October 23, 2001
Page 10 of 17

7. ARGUMENT

Anticipation. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claims 17-19. The Appellant respectfully traverse the anticipation rejection of independent claims 17-19, because *Wood* fails to disclose and teaches away from: from the following limitations of claims 17-19:

1. "wherein one of the web page and the web browser is operatively associated with a calling number of the telephone" as recited in independent claim 17;

2. "wherein the web page is operatively associated by the web server with a calling number of the telephone" as recited in independent claim 18; and

December 20, 2004
Case No. NL 000585 (7790/359)
Serial No.: 10/040,172
Filed: October 23, 2001
Page 11 of 17

3. "wherein the web browser is operatively associated by the web server with a calling number of the telephone" as recited in independent claim 19.

Wood. A proper understanding of *Wood* reveals that *Wood* fails to disclose and teaches away from the aforementioned limitations of independent claims 17-19.

Specifically, *Wood* teaches a user subscription system whereby only the web page is operatively associated with the subscriber. See, Wood at column 9, lines 46-64. *Wood* fails to teach the web page being operatively associated with a calling number of a particular telephone or a web browser being operatively associated with a calling number of a particular telephone. See, U.S. Patent Application Serial No. 10/040,172 at page 4, lines 20-26.

In the Final Office Action, Examiner Al Aubaidi recognizes that *Wood* fails to teach or suggest the aforementioned limitations of claims 17-19. However, Examiner Al Aubaidi asserts that the term "operatively associated" does not have a definite meaning, and is therefore broad enough to read on a web page that simply contains a calling number of a telephone or a web browser that simply contains an account listing of a calling number of a telephone.

December 20, 2004
Case No. NL 000585 (7790/359)
Serial No.: 10/040,172
Filed: October 23, 2001
Page 12 of 17

The Applicant respectfully disagrees with Examiner Al Aubaidi, because the term "associated" has a definite definition that can be found in an dictionary as a verb that broadly means "a connection with another", and the term "operatively" has a definite definition that can be found in any dictionary as an adverb that means "in an operative manner". Thus, the term "operatively associated" has a definite definition that broadly means "an connection with another in an operative manner". Thus, the Applicant thereby respectfully asserts that the proper interpretation of the aforementioned limitations of claims 17-19 is that the web page or the web browser are in connection with a calling number of a telephone in an operative manner. As such, the term "operatively associated" excludes any non-operative manner for associating a web page or a web browser to a calling number of a telephone, such as, for example, a listing of the calling number on the web page wherein the listing is incapable of facilitating an operation of the web page, and a listing of the calling number in a web browser account wherein the listing is incapable of facilitating an operation of the web browser.

Withdrawal of the rejection of independent claims 17-19 under 35 U.S.C. §102(b) as being anticipated by *Wood* is therefore respectfully requested.

December 20, 2004
Case No. NL 000585 (7790/359)
Serial No.: 10/040,172
Filed: October 23, 2001
Page 13 of 17

Dated: December 20, 2004

Respectfully submitted,

PHILIPS INTELLECTUAL PROPERTY
& STANDARDS
P.O. Box 3001
Briarcliff, New York 10510

Jack D. Slobod
Registration No. 26,236
Attorney for Appellant



CARDINAL LAW GROUP
Suite 2000
1603 Orrington Avenue
Evanston, Illinois 60201
Phone: (847) 905-7111
Fax: (847) 905-7113

Darrin Wesley Harris
Registration No. 40,636
Attorney for Appellant

December 20, 2004
Case No. NL 000585 (7790/359)
Serial No.: 10/040,172
Filed: October 23, 2001
Page 14 of 17

CLAIMS APPENDIX

17. A communication system, comprising:
 - a telephone;
 - a telephone switch operative to interact with the telephone and provide a control function to a user of the telephone; and
 - a web server connected to the telephone switch and operative to provide the control function to the user of the telephone via a web page provided by the web server and accessible by a web browser, wherein one of the web page and the web browser is operatively associated with a calling number of the telephone.

18. In a communication system employing a telephone and a telephone switch, a web system comprising:
 - a web server; and
 - a web page provided by the web server and accessible via a web browser, wherein the web server is operable to interact with the telephone switch and the web page is operable to interact with the web browser to thereby provide a control function to a user of a telephone, and
 - wherein the web page is operatively associated by the web server with a calling number of the telephone.

December 20, 2004
Case No. NL 000585 (7790/359)
Serial No.: 10/040,172
Filed: October 23, 2001
Page 15 of 17

19. In a communication system employing a telephone and a telephone switch, a web system comprising:

a web server; and

a web page provided by the web server and accessible via a web browser operatively associated by the web server with a calling number of the telephone, wherein the web server is operable to interact with the telephone switch and the web page is operable to interact with the web browser to thereby provide a control function to a user of a telephone.

December 20, 2004
Case No. NL 000585 (7790/359)
Serial No.: 10/040,172
Filed: October 23, 2001
Page 16 of 17

EVIDENCE APPENDIX

None.

December 20, 2004
Case No. NL 000585 (7790/359)
Serial No.: 10/040,172
Filed: October 23, 2001
Page 17 of 17

RELATED PROCEEDINGS APPENDIX

None.

**This Page is Inserted by IFW Indexing and Scanning
Operations and is not part of the Official Record**

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- BLACK BORDERS**
- IMAGE CUT OFF AT TOP, BOTTOM OR SIDES**
- FADED TEXT OR DRAWING**
- BLURRED OR ILLEGIBLE TEXT OR DRAWING**
- SKEWED/SLANTED IMAGES**
- COLOR OR BLACK AND WHITE PHOTOGRAPHS**
- GRAY SCALE DOCUMENTS**
- LINES OR MARKS ON ORIGINAL DOCUMENT**
- REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY**
- OTHER: _____**

IMAGES ARE BEST AVAILABLE COPY.

As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.